a given water pressure. *Van Horn* v. *City of Des Moines*, 63 Ia. 448, 19 N. W. 293; *Wright* v. *City Council of Augusta*, 78 Ga. 241. So the fact that a householder is incidentally benefited by a contract between a water company and the city is held insufficient to permit recovery for losses due to the company's failure to maintain the agreed pressure. *Mott* v. *Cherryvale Water & Mfg. Co.*, 48 Kan. 12, 28 Pac. 989; *Becker* v. *Keokuk Waterworks*, 79 Ia. 419, 44 N. W. 694. *Contra, Gorrell* v. *Greensboro Water Supply Co.*, 124 N. C. 328, 32 S. E. 720. Some recent cases regard maintenance of pressure as within the public duty of a water company. *Guardian Trust & Deposit Co.* v. *Fisher*, 200 U. S. 57, 26 Sup. Ct. 186; *Mugge* v. *Tampa Waterworks Co.*, 52 Fla. 371, 42 So. 81. But as repairing a sidewalk is obviously not within a street railway's public calling, and as there is no evidence of misfeasance, the decision in the principal case can be sustained only on a beneficiary theory. As the city owes a legal duty to each pedestrian to keep the highway in repair, the case properly falls into the class where intent to benefit the beneficiary is immaterial. See *City of Brooklyn* v. *Brooklyn City R. Co.*, 47 N. Y. 475, 485; *McMahon* v. *Second Avenue R. Co.*, 75 N. Y. 231, 237.

CORPORATIONS — CAPITAL, STOCK, AND DIVIDENDS — SUIT CONTESTING OWNERSHIP OF STOCK. — An intestate died in Maryland owning stock in a Washington corporation. The local administrator in Washington filed a bill against the corporation to have his name placed on the corporate books as the owner of this stock, and served the Maryland administrator by publication. *Held*, that jurisdiction over the foreign administrator has been acquired. *Gamble* v. *Dawson*, 120 Pac. 1060 (Wash.). See NOTES, p. 719.

CRIMINAL LAW — SENTENCE — POWER OF COURT TO SUSPEND ITS IMPOSITION OR ITS ENFORCEMENT. — A court postponed the sentence of a convicted prisoner and at a later term sentenced her to prison. *Held*, that she is legally imprisoned. *Gehrmann* v. *Osborne*, 82 Atl. 424 (N. J., Ct. Ch.).

A court provided in its sentence that execution of the same should be suspended during good behavior. The defendant was at liberty for a longer period thereafter than the term imposed by the sentence. *Held*, that the defendant can be made to serve out his term although the provision for suspension is void. *Daniel* v. *Persons*, 74 S. E. 260 (Ga.); *Fuller* v. *State*, 57 So. 806 (Miss.).

The question of the inherent power of a court to suspend the pronouncement of sentence or to stay its enforcement has produced a great variety of authorities. See note to *State* v. *Abbott*, 33 L. R. A. N. S. 112. The exercise of either by the court has been objected to as an encroachment on the pardoning power of the executive. *People* v. *Blackburn*, 6 Utah 347, 23 Pac. 759. I. A statute expressly authorizing the former has been held unconstitutional for that reason. *People* v. *Cummings*, 88 Mich. 249, 50 N. W. 310. Another case, however, supports such a statute on the ground that an indefinite postponement of judgment is not a pardon, as it does not blot out guilt. *People ex rel. Forsyth* v. *Court of Sessions*, 141 N. Y. 288, 36 N. E. 386. And some courts regard this power as inherent in the court regardless of statutes. *People ex rel. Forsyth* v. *Court of Sessions*, *supra*; *State* v. *Crook*, 115 N. C. 760, 20 S. E. 513. Courts not recognizing the power generally hold that an indefinite suspension deprives the court of jurisdiction to sentence later. *United States* v. *Wilson*, 46 Fed. 748; *People* v. *Allen*, 155 Ill. 61, 39 N. E. 568. II. The power to stay the execution of a sentence once imposed has been generally denied. See *State* v. *Abbott*, 87 S. C. 466, 469, 70 S. E. 6. But the power to enforce it after such a stay has been frequently upheld. *State* v. *Abbott*, *supra*; *Neal* v. *State*, 104 Ga. 509, 30 S. E. 858. *Contra, Re Webb*, 89 Wis. 354, 62 N. W. 177. The number of cases seems to indicate a strong feeling on the part of the trial judges that they have power to suspend both sentence and execution.

INDIANS — RIGHT OF UNITED STATES TO SUE TO CANCEL CONVEYANCES MADE BY INDIANS CONTRARY TO STATUTE. — The United States by its Attorney General brought suit to cancel certain conveyances, made by Indians, of lands allotted to them under a statute which provided that such lands should be inalienable. *Held*, that the United States has capacity to sue. *Heckman* v. *United States*, 32 Sup. Ct. 424. See NOTES, p. 733.

INJUNCTIONS — ACTS RESTRAINED — RETENTION OF PUBLIC OFFICE BY CLAIMANT ACQUIRING POSSESSION FORCIBLY. — A constitutional provision consolidating two municipalities provided that the old charter of one of them should govern, as far as applicable, until the adoption of a new charter. The supreme court held the latter, first invalid, and then valid. Between the two decisions, the plaintiff was elected assessor under the old charter. One month after the second decision, and while the plaintiff continued to act, the defendant, claiming to be assessor under the new charter, forcibly deprived the plaintiff of the rooms and books of the assessor. *Held*, that the plaintiff is entitled to an injunction against their retention by the defendant. *Arnold* v. *Hilts*, 121 Pac. 753 (Colo.).

Quo warranto is the appropriate remedy to try title to public office. *King* v. *Mayor of Colchester*, 2 T. R. 259. So, generally, such title cannot be determined in chancery proceedings. *People* v. *District Court*, 29 Colo. 277, 68 Pac. 224. However, on analogy to the jurisdiction of equity to enjoin a continuing trespass to tangible property, a claimant of an office should be subject to be enjoined from interfering with the one in possession of the office until the title has been tried at law. This is clearly true when the plaintiff is the *de jure* officer. *Poyntz* v. *Shackelford*, 107 Ky. 546, 54 S. W. 855. Similarly, if he is the *de facto* officer. *Seneca Nation of Indians* v. *Jimeson*, 62 N. Y. Misc. 91, 114 N. Y. Supp. 401. Or if the defendant is *primâ facie* not entitled to the office. *Hotchkiss* v. *Keck*, 86 Neb. 322, 125 N. W. 509. So, even though the court expresses no opinion as to the plaintiff's right to the office. *Rhodes* v. *Driver*, 69 Ark. 606, 65 S. W. 106. The court can make the injunction perpetual, if the rights of the parties are clear. *Elliott* v. *Burke*, 113 Ky. 479, 68 S. W. 445. An injunction will issue, though the plaintiff had previously ousted the defendant from possession. *Scott* v. *Sheehan*, 145 Cal. 691, 79 Pac. 353. But some courts, without determining the rights to the office, mandatorily enjoin, as in the principal case, a retention of possession which was taken by force. *Brady* v. *Sweetland*, 13 Kan. 41; *Blain* v. *Chippewa Circuit Judge*, 145 Mich. 59, 108 N. W. 440. This extension is not warranted by the analogy of trespass to tangible property and appears unnecessary under the circumstances of the principal case.

INSANE PERSONS — LIABILITY IN CONTRACT — RECOVERY OF MONEY ADVANCED TO LUNATIC. — A depositor became insane. The bank arranged with his son to continue the account and permit the son to draw checks as his father's agent. At the time of the lunatic's death, there was a considerable overdraft, which had been used to pay creditors for necessaries. *Held*, that the bank is subrogated to the interest-bearing claims of these creditors, although it cannot recover directly either the money loaned or compensation for services. *In re Beavan*, [1912] 1 Ch. 196. See NOTES, p. 725.

INTERSTATE COMMERCE — CONTROL BY CONGRESS — RELATION OF FEDERAL EMPLOYERS' LIABILITY ACT TO INTRASTATE COMMERCE. — The plaintiff's intestate, employed by the defendant to switch cars moving in interstate and intrastate commerce indiscriminately, was killed while moving an intrastate train. *Held*, that the plaintiff may recover under the federal Employers'